

1. WETLAND PROTECTION TO FILL THE FEDERAL SWANCC GAP

Senate Environment Committee

Senate Bill 491

February 10, 2003

2. WE RISK LOSING UP TO ONE THIRD OF INDIANA'S WETLAND RESOURCES IF THE STATE FAILS TO ACT BY FILLING THE GAP CREATED BY THE FEDERAL "SWANCC" DECISION.

3. EQSC goals of no net loss of wetlands and no net gain of high quality wetlands set an appropriate benchmark to protect isolated wetlands.

4. AGENCY INVOLVEMENT:

Department of Natural Resources

Department of Environment Management

Office of the Commissioner of Agriculture

- Working together with the public to establish sound wetland conservation policy and programs in Indiana

- Staff participated in hearings and discussions with Senator Gard and other EQSC members this past year

5. INDIANA DEPARTMENT OF NATURAL RESOURCES (IDNR)

- * Management of habitat, fish and game, endangered species, and forest resources.

- * 1996 Indiana Wetlands Conservation Plan

nBroad range of advisors from:

- IN Farm Bureau
 - IN Builder's Association
 - IN Association of Cities and Towns
 - Cinergy / PSI Energy
 - IN Hardwood Lumbermen's Association
- and 40 other advisory group members.

nProfessionally facilitated by DJ Case & Assoc, staffed by the IDNR, funded by the USEPA.

6. IMPLEMENTATION OF THE INDIANA WETLAND CONS PLAN

nPilot wetland classification and mapping

nAdopt-A-Wetland educational curriculum

nSupport for local wetland land trusts

nMeetings and conferences for agency, industry, and environmental representatives

7. WETLAND HABITAT FOR FISH, WILDLIFE, AND FOREST RESOURCES

- * Over 60 rare and endangered species in Indiana are dependent on wetlands.

- * Support of wildlife and fisheries for 1.1 million anglers, 19,000 duck hunters, and 2,500 trappers.

8. WETLANDS PROTECT LIFE AND PROPERTY

- Flood control and water storage.

- Sediment filtration and protection of drainage ways.

9. OFFICE OF THE COMMISSIONER OF AGRICULTURE

- Up to 80 percent of the remaining wetlands in Indiana are on agricultural properties.

- Sensitive issue with agricultural producers: Managing small vs. large "farmed wetlands."

- Partnership among state agencies: Agricultural community's involvement in developing regulations to manage wetlands.

10. AGRICULTURE AND WETLANDS

- Linkage between agriculture and the environment.
- Farmers participate in wetland conservation programs with state and federal assistance.

11. DEPARTMENT OF ENVIRONMENTAL MANAGEMENT (IDEM)

- Implement federal Clean Water Act (CWA).
- Under Section 401 of the CWA, provides Water Quality Certification for activities in wetlands that require permits from the U.S. Army Corps of Engineers.
- Staff process Sec. 401 certifications and provide assistance in meeting state and federal requirements.
- Monitor mitigation sites, educate the public on wetlands and regulations, and research Indiana's wetland resources.

12. WATER QUALITY AND WETLANDS

- Natural removal of chemical pollutants, including excess fertilizer and waste materials, from lakes and streams.
- Use of constructed wetlands to treat nitrates, bacteria, and other sewage contaminants based on natural wetland principles.

13. INTERAGENCY COOPERATION:

NEW INDIANA WETLANDS WEBSITE (<http://www.wetlands.in.gov>)

14. RECOMMENDATIONS FOR WETLANDS LEGISLATION IN 2003

- Immediate full protection of Indiana's isolated wetlands.
- Clarity for the regulated community.
- Incentives for voluntary creation of wetlands.

15. RECOMMENDATIONS IN 2003: PROVISIONS FOR LIMITED AND SPECIFIC EXEMPTIONS OR GENERAL PERMITS

Provisions for appropriate exemptions or general permits:

- §404(f) agricultural activities
- Private ponds constructed in uplands
- Detention ponds
- < 0.1 acre size
- Restoration

16. RECOMMENDATIONS IN 2003: WETLANDS ADVISORY COUNCIL

A neutral, objective forum for representatives from the regulated community, policymakers, scientists, elected officials, and other interested parties.

Topics for the Council -

- Refine statutes and rule proposals.
- Definitions.
- Classification and inventory.
- Implementation of the Indiana Wetlands Conservation Plan

17. CONCEPTS NOT YET READY FOR LEGISLATION

- Regulation of wetlands by category
 - Standard scientific methods for measuring quality are not available
- Broad exemptions; *de minimis* sizes

- Unacceptable loss of 30% of remaining wetlands if 0.5 acre exemptions.
- Some of the most remarkable and rare wetland types, such as bogs or fens, occur in very small areas less than 0.25 acre in size.

18. CONCEPTS NOT YET READY cont.

- nClear procedures for mitigation banks.
- nEffective compensatory mitigation limited by region and impact.

19. CONCEPTS NOT YET READY cont.

Partnership relationships between state and local jurisdictions to determine roles of each in identifying wetland values.

20. CONCLUSIONS ON SB 491

- nSupport SB 491 Concepts of:
 - immediate protection of isolated wetlands.
 - exemptions of certain agricultural lands per Clean Water Act and Farm Bill programs.
 - incentives for voluntary restoration.
 - mitigation banking.

nAdvocate Major Changes to SB 491:

- current exemptions remove protections for most isolated wetlands.
- categorization scheme is ahead of existing wetland science.
- current mitigation bank allows statewide mitigation and may undermine purposes of wetland protection.

21. CONTACTS

- IDNR - John Goss, Jim Ray, Dan Mathis.
- IDEM - Lori Kaplan, Tim Method, Dennis Clark, Tonya Galbraith.
- OCA - Joe Pearson.